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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,124	03/08/2001	Gary Tapperson	F292.12-0014	2637
164	7590	09/19/2006	EXAMINER	
KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002			LUU, LE HIEN	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/805,124	<b>Applicant(s)</b> TAPPERSON ET AL.	
	<b>Examiner</b> Le H. Luu	<b>Art Unit</b> 2141	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07/13/06 - 08/16/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 9-15, 24-30, and 37-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-23, 31-36 and 44-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/16/06</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Claims 1-8, 16-23, 31-36, and 44-48 are presented for examination.
2. The rejections of claims 1-8, 16-23, 31-36, and 44-48 under 35 U.S.C. § 112 have been withdrawn due to applicant's amendment filed on 07/13/2006.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-8, 16-23, 31-36, 44, and 46 are rejected under 35 U.S.C. § 102(e) as being anticipated by McCain et al. (McCain) patent no. 6,129,449.

5. As to claim 1, McCain teaches the invention as claimed, including a distributed industrial process control system (figures 1- 3) comprising:

a central control including a computer system, having a controller and user input/output (I/O) for providing an interface between the computer system and a user, and a wireless communication link associated with the computer system for transmitting and receiving process control and secondary information (col. 3 line 62 - col. 4 line 27); and

a distributed network of industrial process control field devices, at least one of the field devices having an associated wireless communication link and being under the control of the controller, communicatively disposed between the field device and the controller, for transmitting and receiving process control and secondary information to provide wireless communication between the computer system and the field device (col. 3 line 62 - col. 4 line 27; col. 9 line 64 – col. 10 line 12).

6. As to claim 2, McCain teaches the controller is adapted to control field devices of the distributed network based upon commands from the computer system and for providing data to the computer system based upon signals received from the field devices of the distributed network (Abstract; col. 2 lines 12-23 and lines 51-56).

7. As to claims 3-4, McCain teaches the field devices and the wireless communication link associated with the field devices are powered from the distributed network (col. 3 line 62 - col. 4 line 27).

8. As to claims 5-6, McCain teaches the distributed network includes a field module in communication with a plurality of field devices and a wireless communication link associated with the field module to communicate with the plurality of field devices, and the distributed network includes a network bridge and a wireless communication link associated with the network bridge to communicate with field devices connected to control networks serviced by the network bridge (col. 4 lines 5-12).

9. As to claim 7, McCain teaches the secondary information includes diagnostic data (col. 1 lines 41-47; col. 9 lines 34-38).

10. As to claim 8, McCain teaches the central control is capable of communicating with the field device through the wireless communication links for monitoring process variables (col. 9 line 64 - col. 10 line 11).

11. As to claim 44, McCain teaches the wireless communication link associated with the at least one of the field devices is disposed on a field module communicatively

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connected to the field devices via a hard-wire communication link (figure 2; col. 3 line 62 – col. 4 line 27; col. 9 line 64 – col. 10 line 2).

12. As to claim 46, McCain teaches the wireless communication link associated with the at least one of the field devices is adapted to communicate directly with the wireless communication link associated with the computer system link (figure 2; col. 3 line 62 – col. 4 line 27; col. 9 line 64 – col. 10 line 2).

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 45 and 47-48 are rejected under 35 U.S.C. § 103 (a) as being unpatentable McCain et al. (McCain) patent no. 6,129,449, in view of Eidson et al. (Eidson) patent no. 5,586,305.

15. As to claims 45, McCain teaches the invention substantially as claimed as discussed above; However, McCain does not explicitly teach the wireless communication link is disposed on the field devices.

McCain teaches transducer element and transducer module can be connected using dedicated communication link such as hardwire, wireless, or IR link (figures 5, 8;

col. 3 line 24 – col. 4 line 9; col. 9 lines 48-65).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of McCain and Eidson to disposed wireless communication link to the field device because it would allow them to be located at far distance.

16. Claims 16-23, 31-36, and 47-48 have similar limitations as claims 1-8 and 45; therefore, they are rejected under the same rationale.

17. In the remarks, applicant argued in substance that

(A) Prior art does not teach “the field devices having an associated wireless communication link and being under the control of the controller.”

As to point (A), McCain teaches a host computer 50 uses wireless infrared communication satellite network 55 to communicate with process controller 62 to monitor and control operation of machines and systems on factory floor (col. 3 line 62 – col. 4 line 27; col. 9 line 64 – col. 10 line 12).

(B) Prior art does not teach “a network for providing power to the field devices and the wireless communication links.”

As to point (B), McCain teaches manufacturing machines and infrared communications links are powered from the network (col. 3 line 62 – col. 4 line 27). In addition, applicant admitted field devices use two or four wires are inherently powered from the distributed network (page 2 of the background of the invention).

18. Applicant's arguments filed on 07/13/2006 have been fully considered but they are not deemed to be persuasive.

19. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884.

The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should



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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', with a long horizontal flourish extending to the right.

LE HIEN LUU  
PRIMARY EXAMINER